

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 3, 4, 6, 8-14, and 16-21, and 23-26 are pending in the application, with claims 1, 10, 13, 16, 21, and 25 being the independent claims. Claims 1, 8, 10, 13, 16, 21, 23, and 25 are sought to be amended. Claims 2, 7, 15, and 22 are sought to be cancelled, and claim 5 was previously cancelled without prejudice to or disclaimer of the subject matter therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

The Examiner is thanked for the indication, at page 2 of the Office Action, of the withdrawal of the rejections under 35 U.S.C. § 112 have been withdrawn.

Statement of Substance of Telephonic Interview

Further to the Interview Summary mailed November 3, 2009, Applicants submit the following Statement of Substance of Interview conducted between the Examiner and Applicants' representatives, Glenn J. Perry and Randall Baldwin. The Examiner is thanked for his time during a telephonic interview conducted on October 28, 2009, during which discussions with Applicants' representatives, the Examiner indicated that the rejection of claim 25 indicated on page 3 of the Office Action could be traversed by amendments to claims 25 submitted herein. During the interview possible amendments to claims 1, 10, 13, and 21 to overcome the rejections under 35 U.S.C. §§ 102 and 103

were discussed. Possible clarifying amendments to independent claim 16 were also discussed. No agreement on specific claim language was reached.

Allowable Subject Matter

The Examiner is thanked for the indication, at page 12 of the Office Action, of the allowable subject matter recited in claims 2-4, 15-20, 22-26.

Rejection under 35 U.S.C. § 101

Claim 25 was rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

Although Applicants believe claim 25 represents patentable subject matter as previously pending in the application, as discussed during the aforementioned interview, merely in order to expedite prosecution, Applicants have amended claim 25 without conceding the propriety of the rejection. Support for these amendments is found at least at paragraphs [0039], [0043] and [0103] of the instant application. Claim 25 as amended herein recites at least a file security system for restricting access to an electronic file, comprising: a computing device; and a module which if executed by the computing device, causes the computing device to store a plurality of cryptographic key pairs on a computer-readable storage medium. Therefore, claim 25 recites claim limitations with a computing device as a part of the file security system recited in the preamble and is thus directed to statutory subject matter.

Accordingly, at least based on the amendments above, Applicants respectfully request that the rejection of claims 25 under 35 U.S.C. § 101 be reconsidered and withdrawn, and that the claim be allowed.

Provisional Nonstatutory Double Patenting Rejections

The Examiner, on page 4 of the Office Action, has provisionally rejected claims 1-4 and 6-26 under the judicially created doctrine of obviousness-type double patenting for allegedly being unpatentable over claims 1-3 and 9-38 of co-pending U.S. Patent Application No. 10/815,251 in view of U.S. Patent Application Publication No. 2005/0097061 to Shapiro *et al.* ("Shapiro").

The Examiner, on page 4 of the Office Action, has provisionally rejected claims 1-4 and 6-26 under the judicially created doctrine of obviousness-type double patenting for allegedly being unpatentable over claims 1-31 of co-pending U.S. Patent Application No. 10/676,850 in view of Shapiro. Applicants respectfully traverse for the reasons stated below.

The cancellation of claims 2, 7, 15, and 22 renders the rejection of these claims moot.

As discussed during the aforementioned interview, Applicants request that the double patenting rejection be held in abeyance until prosecution of Application Nos. 10/815,251 and 10/676,850 on the merits is substantially completed.

Moreover, Applicants note that claims 23-25 of Application No. 10/676,850 have been canceled.

As the Examiner notes on pages 4 and 5 of the Office Action, claims 1-31 of pending Application No. 10/676,850 and "the conflicting claims [1-3 and 9-38 of Application No. 10/815,251] are not identical" to claims 1-4 and 6-26 of the instant application. Applicants submit that the pending system, method, and computer-readable medium claims 1-22 and 26-31 of Application No. 10/676,850 are patentably distinct

from amended method and computer readable medium claims 1, 8, 10, 13, 16, 21-23, and 25 of the instant application. Applicants further submit that method and system claims 1-3 and 9-38 of pending Application No. 10/815,251 are patentably distinct from method and computer readable medium claims 1, 3, 4, 6, 8-14, 16-21, and 23-26 of the instant application. Further, claims 1, 8, 10, 13, 16, 21, 23, and 25 are amended herein. Claims 3, 4, 6, 8, and 9 depend from claim 1. Claims 11 and 12 depend from claim 10. Claims 14 and 26 depend from claim 13. Claims 17-20 depend from claim 16, and claims 23 and 24 depend from claim 21.

Thus, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 3, 4, 6, 8-14, 16-21, and 23-26.

Alternatively, pursuant to M.P.E.P. § 804(I)(B), since co-pending U.S. Patent Application Nos. 10/815,251 and 10/676,859 have not been allowed, the Examiner should maintain the double patenting rejections in this instant application as ‘provisional’ double patenting rejections, which can be converted into double patenting rejections when the co-pending U.S. Patent Application Nos. 10/815,251 and 10/676,859 issue as patents. As discussed during the aforementioned telephonic interview, Applicants will appropriately address the provisional double patenting rejections in the event it is converted to an actual double patenting rejection pursuant to M.P.E.P. § 804(I)(B) after co-pending U.S. Patent Application Nos. 10/815,251 and 10/676,850 issue as patents.

Rejection under 35 U.S.C. § 102

Claims 1, 6-9, and 21 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Shapiro. Applicants respectfully traverse this rejection for the reasons stated below.

The cancellation of claims 2 and 7 renders the rejection of these claims moot.

Without acquiescing to the propriety of the rejection, and merely to expedite prosecution, Applicants have amended independent claims 1 and 21 to incorporate the allowable subject matter of previously pending claims 2, 15, and 22. Additionally, as discussed during the aforementioned telephonic interview, Applicants have amended claim 1 to incorporate the subject matter of previously pending claim 7. Accordingly, claims 1 and 21 are in condition for allowance.

Claims 1 and 21 recite features that distinguish over the applied reference. For example, claim 1 as amended herein recites, *inter alia*, encrypting the electronic document using cryptographic keys associated with particular cut-off periods, associated retention durations, and corresponding maximum off-line periods, wherein the encrypting is based on the document retention policy such that the electronic document can be cryptographically accessed using the cryptographic keys during retention durations and prior to the expiration of the maximum off-line period of the client; and deactivating the cryptographic keys when the respective document retention duration has expired, thereby preventing further access to the electronic document.

Claim 21 as amended herein recites a "tangible computer-readable medium having instructions stored thereon, the instructions comprising:

instructions to assign a document retention policy to an electronic document, the document retention policy being derived from a recurring cut-off retention schedule specifying cut-off periods, each cut-off period having a respective document retention duration associated therewith and corresponding to a respective maximum off-line period of a client, wherein the maximum off-line period expires a predetermined period of time after a beginning of its cut-off period; and

instructions to encrypt the electronic document using cryptographic keys associated with particular cut-off periods, associated retention durations, and corresponding maximum off-line periods, wherein the encrypting is based on the document retention policy such

that the electronic document can be cryptographically accessed using the cryptographic keys during retention durations and prior to the expiration of the maximum off-line period of the client."

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the 35 U.S.C. § 102(e) rejection of claims 1 and 21 and pass these claims to allowance. Additionally, at least based on their respective dependencies to claims 1 and 21, claims 3, 4, 6, 8, 9 and 23 and 24 should be found allowable over the applied reference, as well as for their additional distinguishing features.

Rejection under 35 U.S.C. § 103

At page 8 of the Office Action, the Examiner rejected claims 10-14 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Shapiro in view of U.S. Patent Number 6,603,857 to Batten-Carew *et al.* ("Batten-Carew "). Applicants respectfully traverse this rejection for the reasons stated below.

Without acquiescing to the propriety of the rejection, and merely to expedite prosecution, Applicants have amended independent claims 10 and 13 to incorporate the allowable subject matter of previously pending claims 2, 15, and 22. Accordingly, claims 10 and 13 are in condition for allowance.

Independent claims 10 and 13 recite features that distinguish over the applied reference. For example, claim 10 as amended herein recites, *inter alia*, associating a document retention policy with first document retention key, wherein the document retention policy specifies a document retention duration that expires a predetermined period of time after a beginning of a next cut-off period; determining whether a cut-off period of a recurring cut-off retention schedule for the first document retention key has

elapsed; and notifying the client of the next document retention key, the electronic document being cryptographically accessible only during document retention durations and prior to the expiration of the maximum off-line period of the client using a cryptographic key associated with particular cut-off periods, associated retention durations, and corresponding maximum off-line periods.

Claim 13 as amended herein recites, among other features:

associating a document retention policy with first document retention key, wherein the document retention policy specifies a document retention duration that expires a predetermined period of time after a beginning of a next cut-off period;

generating a next document retention key to be used to encrypt the electronic document during a next cut-off period, document retention duration associated therewith and corresponding to a maximum off-line period of a client; and

notifying the client of the next document retention key, the electronic document being cryptographically accessible only during document retention durations and prior to the expiration of the maximum off-line period of the client using a cryptographic key associated with particular cut-off periods, associated retention durations, and corresponding maximum off-line periods.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the 35 U.S.C. § 103(a) rejection of claims 10 and 13 and pass these claims to allowance. Additionally, at least based on their respective dependencies to claims 10 and 13, claims 11, 12, 14, and 26 should be found allowable over the applied references, as well as for their additional distinguishing features.

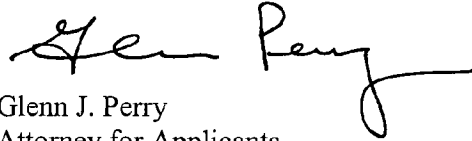
Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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